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| <b>UNITED STATES DISTRICT COURT</b>   | )                                       |
| <b>SOUTHERN DISTRICT OF NEW YORK</b>  | )                                       |
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| <b>In re Methyl Tertiary-Butyl Ether</b>                                    | )                                       |
| <b>("MTBE") Products Liability Litigation</b>                               | ) <b>Master File C.A. No. 1:00-1898</b> |
| <hr/>   |   |
| <b>This document relates to:</b>  | ) <b>MDL 1358 (SAS)</b>                 |
|   | ) <b>No. M21-88</b>                     |
| <hr/>   |   |
| <b><i>City of New York v. Amerada Hess Corp., et al.</i> No. 04 CV 3417</b> | )                                       |
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|   | )                                       |

**DEFENDANT TOTAL PETROCHEMICALS USA, INC.'S  
LIST OF TRIAL EXHIBITS**

In accordance with Federal Rule of Civil Procedure 26(a)(3) and Case Management Order No. 47, Defendant TOTAL PETROCHEMICALS USA, INC. ("TOTAL") hereby makes the following pre-trial disclosure of exhibits it may elect to offer in the trial of the above-styled cause, depending, in part, on the proof offered at trial by Plaintiff and other Defendants, the Court's rulings on pre-trial motions and evidentiary and other motions made during trial, and on other factors, including the evidence adduced during ongoing depositions. TOTAL anticipates that it may supplement its list with additional exhibits in light of: (1) the extension of the expert discovery cut-off to May 4, 2009; (2) Plaintiff's failure to fully respond to certain discovery requests by Defendants, including Plaintiff's failure to clearly define the scope and nature of its commingled product, market share, punitive damages and other theories in this case; and, (3) the pending depositions of certain experts and fact witnesses. With this filing TOTAL does not waive any rights it may otherwise have to supplement or amend its exhibit list, including in response to any exhibits offered by Plaintiffs or other Defendants, any changes in Plaintiff's or other Defendants' exhibit lists, or facts adduced during ongoing discovery.

TOTAL incorporates into its exhibit list by reference any and all documents and exhibits included on Plaintiff's trial exhibit list or on any other Defendant's trial exhibit list. TOTAL also reserves the right to remove any exhibit(s) from its exhibit list prior to introduction of the exhibit at trial, to elect not to offer any of the exhibit(s) into evidence at trial, and/or to object to the admissibility of any exhibit(s) offered by Plaintiff or another Defendant at trial, regardless of whether the challenged exhibit is on Total's exhibit list.

Dated: April 27, 2009  
Houston, Texas

Respectfully submitted,

s/Amy E. Parker  
M. Coy Connelly (MC 9384)  
Amy E. Parker (AP 7027)

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**ATTORNEYS FOR DEFENDANT  
TOTAL PETROCHEMICALS USA, INC.**

### LIST OF TRIAL EXHIBITS

| No. | Date       | Description   | Source   |
|-----|------------|---|--|
| 1   | 08/13/1979 | Letter from Cleve Forward to Jim Watson   | Produced as<br>TOTAL-MDL-<br>0000555 - TOTAL-<br>MDL-0000558 |
| 2   | 12/18/1984 | Letter from Joe Horton to Rene Brown  | Produced as<br>TOTAL-MDL-<br>0004450 - TOTAL-<br>MDL-0004456 |
| 3   | 04/30/1985 | Letter from Ken Applegate to W.D. Fulton  | Produced as<br>TOTAL-MDL-<br>0003811                         |
| 4   | 10/15/1985 | Material Safety Data Sheet #M92, Product:<br>MTBE                                       | Produced as<br>TOTAL-MDL-<br>0000414 - TOTAL-<br>MDL-0000416 |
| 5   | 04/27/1988 | Background summary for the MTBE Health<br>Effects Testing Task Force                    | Produced as<br>TOTAL-MDL-<br>0005571 – TOTAL-<br>MDL-0005597 |
| 6   | 03/21/1989 | Material Safety Data Sheet #P21, Product-<br>Name: Unleaded Gasoline; hydrocarbon blend | Produced as<br>TOTAL-MDL-<br>0000657 - TOTAL-<br>MDL-0000658 |
| 7   | 03/21/1989 | Material Safety Data Sheet #P21, Product:<br>Unleaded Gasoline (MTBE)                   | Produced as<br>TOTAL-MDL-<br>0004582 - TOTAL-<br>MDL-0004584 |
| 8   | 03/31/1989 | Material Safety Data Sheet, Premium Unleaded<br>Gasoline containing MTBE                | Produced as<br>TOTAL-MDL-<br>0005700 - TOTAL-<br>MDL-0005705 |
| 9   | 11/14/1990 | Letter from L. Douglas Smith to J.G. Jenkins  | Produced as<br>TOTAL-MDL-<br>0003574 – TOTAL-<br>MDL-0003578 |
| 10  | 03/23/1992 | Letter from Bill Shelton to Neal Abernathy, et<br>al.                                   | Produced as<br>TOTAL-MDL-<br>0002058 – TOTAL-<br>MDL-0002059 |
| 11  | 04/27/1992 | Letter from Neal Abernathy to Bill Loubiere, et<br>al.                                  | Produced as<br>TOTAL-MDL-<br>0003398 – TOTAL-<br>MDL-0003407 |

| No. | Date       | Description  | Source   |
|-----|------------|--|--|
| 12  | 05/01/1992 | Letter from Jerome E. Nichols to Oxygenate Team                                    | Produced as TOTAL-MDL-0003398 – TOTAL-MDL-0003407                                      |
| 13  | 06/01/1992 | Letter from Donald Miller to Doris Newton 1992                                     | Admitted as Exhibit 30 during the deposition of Neal Abernathy taken June 6, 2006      |
| 14  | 05/17/1993 | Letter from Arthur Wiese, Jr. to the API General Committee on Communications       | Produced as TOTAL-MDL-0003086 – TOTAL-MDL-0003095                                      |
| 15  | 06/30/1994 | Press release on renewable fuels   | Admitted as Exhibit 43 during the deposition of Rick Charter taken on October 26, 2006 |
| 16  | 03/14/1996 | Letter from Bob Hockman to Rick Charter  | Admitted as Exhibit 8 during the deposition of Neal Abernathy taken on June 6, 2006    |
| 17  | 03/21/1996 | Letter from Bruce Bauman to Ad Hoc MTBE Working Group                              | Admitted as Exhibit 18 during the deposition of Neal Abernathy taken on June 30, 2006  |
| 18  | 01/00/1997 | MTBE Background Paper  | Admitted as Exhibit 9 during the deposition of Neal Abernathy taken on June 6, 2006    |
| 19  | 08/21/1997 | Material Safety Data Sheet #P121, Product name: Mid Grade UL Gasoline MTBE         | Produced as TOTAL-MDL-0000466 - TOTAL-MDL-0000473                                      |
| 20  | 11/26/1997 | Letter from G.W. Frick to the API Health, Environment and Safety General Committee | Produced as TOTAL-MDL-0000272 – TOTAL-MDL-0000284                                      |
| 21  | 12/12/1997 | Material Safety Data Sheet #P122, Trade name: Regular UL Gasoline MTBE             | Produced as TOTAL-MDL-0000434 - TOTAL-MDL-0000436                                      |

| No. | Date       | Description  | Source  |
|-----|------------|--|---|
| 22  | 12/12/1997 | Material Safety Data Sheet #P121, Product name: Mid Grade UL Gasoline MTBE           | Produced as TOTAL-MDL-0000463 - TOTAL-MDL-0000465 |
| 23  | 04/10/1998 | Fax from API to Downstream Committee Members   | Produced as TOTAL-MDL-0001214 - TOTAL-MDL-0001217 |
| 24  | 06/09/1998 | Material Safety Data Sheet #P120, Product name: Premium UL Gasoline MTBE             | Produced as TOTAL-MDL-0000483 - TOTAL-MDL-0000490 |
| 25  | 08/21/1998 | Material Safety Data Sheet #P122, Trade name: Regular UL Gasoline MTBE               | Produced as TOTAL-MDL-0000437 - TOTAL-MDL-0000444 |
| 26  | 08/21/1998 | Material Safety Data Sheet #P120, Product name: Premium UL Gasoline MTBE             | Produced as TOTAL-MDL-0000494 - TOTAL-MDL-0000501 |
| 27  | 09/18/1998 | Material Safety Data Sheet #P122, Trade name: Regular UL Gasoline MTBE               | Produced as TOTAL-MDL-0000426 - TOTAL-MDL-0000433 |
| 28  | 09/18/1998 | Material Safety Data Sheet #P121, Product name: Mid Grade UL Gasoline MTBE           | Produced as TOTAL-MDL-0000455 - TOTAL-MDL-0000462 |
| 29  | 12/11/1998 | Material Safety Data Sheet #P122, Product name: Regular Unleaded Gasoline with MTBE  | Produced as TOTAL-MDL-0000417 - TOTAL-MDL-0000425 |
| 30  | 12/11/1998 | Material Safety Data Sheet #P25, Product name: Mid Grade Unleaded Gasoline with MTBE | Produced as TOTAL-MDL-0000445 - TOTAL-MDL-0000454 |
| 31  | 12/11/1998 | Material Safety Data Sheet #P120, Product name: Premium Unleaded Gasoline with MTBE  | Produced as TOTAL-MDL-0000474 - TOTAL-MDL-0000482 |
| 32  | 12/12/1998 | Material Safety Data Sheet #P120, Product name: Premium UL Gasoline MTBE             | Produced as TOTAL-MDL-0000491 - TOTAL-MDL-0000493 |

| No. | Date       | Description  | Source  |
|-----|------------|--|---|
| 33  | 04/25/2000 | Letter from E.H. Murphy to Downstream Committee members                            | Produced as TOTAL-MDL-0000864 - TOTAL-MDL-0000898 |
| 34  | 07/10/2000 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000636 - TOTAL-MDL-0000642 |
| 35  | 07/10/2000 | Material Safety Data Sheet #P120, Trade Name Premium Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000659 - TOTAL-MDL-0000665 |
| 36  | 07/10/2000 | Material Safety Data Sheet #P25, Trade Name Mid-Grade Unleaded Gasoline with MTBE  | Produced as TOTAL-MDL-0000673 - TOTAL-MDL-0000679 |
| 37  | 07/10/2000 | Material Safety Data Sheet #P125, Trade Name High Octane UL Gasoline MTBE          | Produced as TOTAL-MDL-0000694 - TOTAL-MDL-0000700 |
| 38  | 07/10/2000 | Material Safety Data Sheet, Premium Unleaded Gasoline containing MTBE              | Produced as TOTAL-MDL-0007137 - TOTAL-MDL-0007144 |
| 39  | 01/01/2001 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000650 - TOTAL-MDL-0000656 |
| 40  | 01/02/2001 | Material Safety Data Sheet #P120, Trade Name Premium Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000666 - TOTAL-MDL-0000672 |
| 41  | 01/02/2001 | Material Safety Data Sheet #P125, Trade Name High Octane UL Gasoline MTBE          | Produced as TOTAL-MDL-0000709 - TOTAL-MDL-0000715 |
| 42  | 03/02/2001 | Material Safety Data Sheet #P121, Trade Name Mid-Grade Unleaded Gasoline with MTBE | Produced as TOTAL-MDL-0000687 - TOTAL-MDL-0000693 |
| 43  | 05/07/2001 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000643 - TOTAL-MDL-0000649 |

| No. | Date       | Description  | Source  |
|-----|------------|--|---|
| 44  | 05/07/2001 | Material Safety Data Sheet #P121, Trade Name Mid-Grade Unleaded Gasoline with MTBE | Produced as TOTAL-MDL-0000680 - TOTAL-MDL-0000686 |
| 45  | 05/07/2001 | Material Safety Data Sheet #P125, Trade Name High Octane UL Gasoline MTBE          | Produced as TOTAL-MDL-0000701 - TOTAL-MDL-0000708 |
| 46  | 05/07/2001 | Material Safety Data Sheet #P29, Trade Name Premium Unleaded Gasoline with Ethanol | Produced as TOTAL-MDL-0007087 - TOTAL-MDL-0007093 |
| 47  | 06/11/2003 | Material Safety Data Sheet #M92, Trade Name: Methyl Tert-Butyl Ether               | Produced as TOTAL-MDL-0000559 - TOTAL-MDL-0000564 |
| 48  | 06/17/2003 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000609 - TOTAL-MDL-0000617 |
| 49  | 07/17/2003 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000591 - TOTAL-MDL-0000599 |
| 50  | 01/13/2004 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000573 - TOTAL-MDL-0000581 |
| 51  | 10/01/2004 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000582 - TOTAL-MDL-0000590 |
| 52  | 10/01/2004 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000601 - TOTAL-MDL-0000608 |
| 53  | 10/15/2004 | Material Safety Data Sheet #M92, Trade Name Methyl Tert-Butyl Ether (MTBE)         | Produced as TOTAL-MDL-0000565 - TOTAL-MDL-0000571 |
| 54  | 01/04/2005 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE   | Produced as TOTAL-MDL-0000627 - TOTAL-MDL-0000635 |

| No. | Date       | Description  | Source   |
|-----|------------|--|--|
| 55  | 04/26/2005 | Material Safety Data Sheet #P122, Trade Name Regular Unleaded Gasoline with MTBE | Produced as TOTAL-MDL-0000618 - TOTAL-MDL-0000626  |
| 56  | 01/01/2006 | Material Safety Data Sheet #M92, for MTBE  | Produced as TOTAL-MDL-0007165 - TOTAL-MDL-0007171  |
| 57  | 08/21/2006 | Material Safety Data Sheet for Regular Unleaded Gasoline with MTBE               | Produced as TOTAL-MDL-00007 - TOTAL-MDL-00007  |
| 58  | 10/16/2006 | Article from TOTAL corporate website   | Admitted as Exhibit 38 during the 30(b)(6) deposition of Rick Charter taken on October 26, 2006  |
| 59  | 01/10/2008 | Exhibit A to the Affidavit of Kim Arterburn                                      | Motion for Partial Summary Judgment of Total Petrochemicals USA, Inc. filed on January 11/2008 in County of Suffolk and <i>Suffolk County Water Authority v. Amerada Hess Corp., et al.</i> , No. 04-CV-5424 |
| 60  | 01/10/2008 | Exhibit A and B to the Affidavit of Tom Knight                                   | Motion for Partial Summary Judgment of Total Petrochemicals USA, Inc. filed on January 11/2008 in County of Suffolk and <i>Suffolk County Water Authority v. Amerada Hess Corp., et al.</i> , No. 04-CV-5424 |

| No. | Date       | Description   | Source  |
|-----|------------|---|---|
| 61  | 02/13/2009 | Expert Report of Doctor Elizabeth M. Bailey for Total Petrochemicals USA, Inc.  | Filed on behalf of Total Petrochemicals USA, Inc.   |
| 62  | 03/30/2009 | Rebuttal Expert Report of Doctor Elizabeth M. Bailey for Valero Defendants, Ultramar Defendants, Premcor Defendant, and Total Defendant | Filed on behalf of Valero Defendants, Ultramar Defendants, Premcor Defendant, and Total Defendant |

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant TOTAL PETROCHEMICALS USA, INC.'S List of Trial Exhibits was served upon counsel for Plaintiff and to all other counsel of record via LexisNexis File & Serve on the 27th day of April, 2009.

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s/ Amy E. Parker  
Amy E. Parker